

DOCKET FILE COPY ORIGINAL

ORIGINAL

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

NOV 17 1994

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

Implementation of Sections 3(n)
and 332 of the Communications Act

Regulatory Treatment of Mobile
Services

GN Docket No. 93-252

To: The Commission

**COMMENTS OF AIRTOUCH PAGING
AND ARCH COMMUNICATIONS GROUP IN SUPPORT OF
EMERGENCY MOTION FOR PARTIAL STAY**

AirTouch Paging ("AirTouch Paging") and Arch Communications Group ("Arch"), by their attorneys, hereby submit their comments in support of the Emergency Motion for Partial Stay filed by the National Association of Business and Educational Radio ("NABER") seeking to stay temporarily the use of the new FCC Form 600 ("Form 600").^{1/} The following is respectfully shown:

1. AirTouch Paging holds numerous Part 22 (Public Mobile) and Part 90 (Private Mobile) authorizations for paging stations throughout the United States.

^{1/} The Naber Motion was filed November 4, 1994. The Commission mandated in the Third Report and Order in GN Docket No. 93-252, FCC 94-212, released September 23, 1994, that FCC Form 600 be used beginning January 2, 1995. Third Report and Order at ¶ 298.

No. of Copies rec'd 0 + 4
List A B C D E

Currently, AirTouch Paging provides service to in excess of 1.3 million paging units throughout the country. By industry estimates, AirTouch Paging is one of the largest paging service providers and one of the fastest growing paging companies in the United States.

2. Arch also holds Part 22 and Part 90 authorizations throughout the U.S. Arch provides service to over 450,000 units, and has expanded its operations to provide nationwide service in addition to wide area regional services in multiple territories. Arch, too, has been growing rapidly and qualifies as one of the fastest growing paging companies in the country.

3. The scope of the Joint Commenters' operations causes them to file a constant stream of applications to expand coverage on existing channels, add channels and modify existing facilities. AirTouch Paging estimates that within the last twelve months it filed approximately 700 Form 401s and 489s, and over 330 Form 574s -- which is nearly 4 forms on average per business day. Arch has processed in excess of 500 commercial mobile service facility applications within the past year. Consequently, the Joint Commenters have acute interests in the forms used by the Commission. AirTouch Paging and Arch each currently utilize computerized databases of their own design to generate and track applications. Any significant modification or change in the forms used to apply for

frequencies, or to notify the Commission of the construction of facilities, requires substantial modifications to their computerized databases.^{2/} If the Joint Commenters do not have enough time to adapt to rule changes, the result will be delays in processing system changes that are essential to optimize service to the public.

4. In the Comments and Reply Comments that preceded the adoption of the Form 600 in this proceeding, a broad array of commenters, including AirTouch Paging and Arch, recommended delaying the adoption of a new Form 600 for a period of time until new rules had been put in place.^{3/} The FCC did delay the use of the Form 600, but only until January 2, 1995. Unfortunately, a 90-day implementation period is not enough -- especially since the Form 600 itself might not be approved until two weeks prior to its mandatory use.

5. As NABER aptly points out, there are numerous problems with requiring the use of the new Form 600 on January 2, 1995: (a) the Form 600 has not been finalized;^{4/}

^{2/} Joint Commenters estimate that once the Commission's rules and the forms are finalized it will take over 120 days to reprogram their computers, test the revised software, and receive Commission approval of their new computer generated forms.

^{3/} See, e.g., Comments of AirTouch Paging, Arch Communications Group, Celpage, Inc., Dial Page, Inc. GTE Service Corporation, McCaw Cellular Communications, Inc., Metrocall, Network USA, Nextel Communications, and the Personal Communications Industry Association.

^{4/} Petition at p. 3.

(b) the Form 600 will not be widely distributed prior to the deadline;^{5/} (c) the impossibility of change-over to the new Form 600 in two weeks;^{6/} (d) the Commission is not prepared to accept the new Form 600;^{7/} (e) the use of the new Form 600 may delay implementation of electronic filing of applications;^{8/} and, (f) the Commission has not determined which sections of the new Form 600 the coordinator will be required to verify.^{9/}

6. Joint Commenters concur with NABER's assessment. AirTouch and Arch are concerned that the use of the Form 600 on January 2, 1995 will lead to widespread confusion in the industry and chaos for the coordinator and the Commission. Joint Commenters also believe that other companies that currently use computer-generated applications will not have adequate time to reconfigure and redesign their systems to implement the new Form 600.^{10/} If these companies are forced to begin using the new Form 600 before their computer support systems have been properly designed,

^{5/} Id. at pp. 3-4.

^{6/} Id. at pp. 4-6.

^{7/} Id. at p. 6.

^{8/} Id. at p. 7.

^{9/} Id.

^{10/} AirTouch currently is working with outside software vendors to implement the new Form, but because of the late date of approval of the Form from the Office of Management and Budget, it is not at all clear that the work will be completed before January 2, 1995.

errors are likely to occur that may cause an enormous bottleneck in the processing of applications for facilities. When a processing bottleneck develops, the public interest is harmed because the entire industry will be frustrated in efforts to initiate facilities needed to meet the public demand for service.

7. Joint Commenters believe there are additional reasons this fast track implementation schedule will disserve the public interest. Discussions at recent industry gatherings indicate that Petitions for Reconsideration of the Third Report and Order are likely to be filed. Some of these petitions may urge the Commission to make substantial changes to the Commission's new Commercial Mobile Radio Service Rules which could have an impact on the content of the new Form 600.^{11/} Joint Commenters believe that it would not serve the public interest for the industry to be forced to begin using the current version of Form 600 only to find within several months that the form has been changed as a result of further rule changes. Premature use of the new Form 600 could lead to the Commission having a multitude of different forms to deal with at the same time -- old 401s and 574s, the original Form 600, and a revised Form 600. The Commission wants to implement the new form to reduce the number of

^{11/} For example, there was almost unanimous rejection of the Commission's new rules regarding the licensing of 931 MHz paging channels.

forms. Unfortunately, the current implementation schedule may increase the number of forms the Commission must process. The wiser course is to stay the use of the new Form 600 temporarily until the new substantive rules become final and beyond review.^{12/}

8. Joint Commenters, therefore, respectfully request that the Commission delay the use of the FCC Form 600 until 120 days after the Commission has had an opportunity to act upon any Petitions for Reconsideration submitted with reference to the new Commercial Mobile Radio Service rules.

Respectfully submitted,

**AIRTOUCH PAGING
ARCH COMMUNICATIONS GROUP**

By: 

Mark A. Stachiw
Carl W. Northrop

Their Attorneys

Mark A. Stachiw
AIRTOUCH PAGING
12221 Merit Drive
Suite 800
Dallas, Texas 75251
(214) 458-5200

Carl W. Northrop
BRYAN CAVE
700 13th St., N.W.
Suite 700
Washington, D.C. 20005
(202) 508-6000

November 17, 1994

^{12/} Joint Commenters also believe that the public interest would be served by the Commission delaying implementation of the new Rules themselves until after resolving any Petitions for Reconsideration, especially those portions dealing with 931 MHz paging channels.

CERTIFICATE OF SERVICE

I, Sondra R. Rich, hereby certify that I have this 17th day of November, 1994, caused copies of the foregoing **Comments of AirTouch Paging and Arch Communications Group in Support of the Emergency Motion for Partial Stay** to be delivered by hand, courier charges prepaid, or by first class U.S. mail, postage prepaid, to the following:

Chairman Reed Hundt*
Stop Code 0101
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, DC 20554

Commissioner Andrew C. Barrett*
Stop Code 0103
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, DC 20554

Commissioner Rachelle Chong*
Stop Code 0105
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Commissioner James H. Quello*
Stop Code 0106
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, DC 20554

Commissioner Susan Ness*
Stop Code 0104
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, DC. 20554

John Cimko, Chief*
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 644
Washington, DC 20554

Judith Argentieri*
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 644
Washington, DC 20554

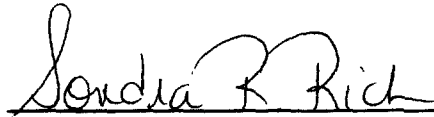
Peter Batacan*
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, DC 20554

Ralph A. Haller*
Private Radio/Wireless Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, DC 20554

Regina Keeney*
Private Radio/Wireless Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, DC 20554

Gerald P. Vaughan*
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, DC 20554

David E. Weisman
Meyer, Faller, Weisman & Rosenberg
4400 Jenifer Street, N.W., Suite 380
Washington, DC 20015-2113


Sondra R. Rich

* Denotes Hand Delivery